

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Elgin, Joliet and Eastern Railway Company, the County of Lake,
and the State of Illinois, Department of Transportation.

Stipulated Agreement regarding improving public safety at the
crossings of the Company's track with public highways known as : T02-0073
Cuba Road located in Lake Zurich, and Gilmer Road and Old Mc
Henry Road located near Hawthorne Woods, all located in Lake
County, Illinois, designated as crossings DOT 260 511B, milepost
22.44; DOT 260 500N, milepost 17.09; and DOT 260 503J,
milepost 18.56, respectively.

SUPPLEMENTAL ORDER

By the Commission:

On August 7, 2002, the Illinois Commerce Commission ("Commission") entered its Original Order in this matter requiring the Elgin, Joliet and Eastern Railway Company ("EJ&E") to, among other things, install automatic flashing light signals and gates controlled by constant warning time circuitry at Old McHenry Road located near Hawthorne Woods in Lake County, Illinois. The cost for the installation was borne by the Illinois Department of Transportation ("Department"), utilizing Federal Funds, and the Grade Crossing Protection Fund ("Fund") administered by the Commission.

On March 28, 2003, the Elgin, Joliet and Eastern Railway Company ("Company") filed its First Supplemental Petition stating that it had unforeseen additional expenses due to required underground boring and exposure of buried utilities. EJ&E did not foresee in its estimate the cost incurred to expose an 18" high-pressure gas line under the crossing surface of the westbound lanes. Exposure of the line under the direct supervision of the gas utility, road closure and additional conduit boring work required under the crossing has resulted in additional cost amounting to \$6,500. Therefore, EJ&E requests the additional expenses be allocated to the parties in the same manner as noted in the original Order in this matter.

In response to the Supplemental Petition, the Department, which is obligated for Seventy percent (70%) of these costs, states that it has no objection to the additional cost. Commission Staff has reviewed the Supplemental Petition and has indicated it has no objections to the granting of the relief sought by the Petitioner.

The Commission, having given due consideration to the entire record herein, finds that:

- 1) the Commission has jurisdiction of the parties hereto and the subject matter herein;

- 2) the recitals of fact as set forth in the prefatory portion of this Supplemental Order are true and correct and are hereby adopted as findings of fact;
- 3) the EJ&E request is fair and reasonable and should be granted, without hearing.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that the cost for installation of the new warning devices is increased by \$6,500. The Fund amount is hereby increased, in the same percentage as noted in the original Order dated August 7, 2002, to an amount not to exceed \$1,950. The Department's percentage is also increased by 70% to an amount not to exceed \$4,550.

IT IS FURTHER ORDERED that all other terms and conditions of the original Order dated August 7, 2002, shall remain in full force and effect except as herein modified.

IT IS FURTHER ORDERED that subject to Sections 18c-2201 and 18c-2206 of the Law, this is a final decision of the Commission subject to Administrative Review Law.

By Order of the Commission this 23rd day of April, 2003.

*Edward C. Husley*₂

Chairman

JUDGE
SECTION CHIEF <i>MES</i>
<i>[Signature]</i> ORDERS SUPERVISOR